

ROBERT S. STERN (CA SBN 68240)
W. STEPHEN SMITH (*admitted pro hac vice*)
GREGORY B. KOLTUN (CA SBN 130454)
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013-1024
Telephone: (213) 892-5200
Facsimile: (213) 892-5454
RStern@mofo.com

Attorneys for Defendants
JPMORGAN CHASE & CO., CHASE BANK USA, N.A.,
JPMORGAN CHASE BANK, N.A., and BANK ONE, N.A.
(*additional counsel and parties listed on signature page*)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re ATM FEE ANTITRUST LITIGATION

Master File No. C 04-2676 CRB

[CLASS ACTION]

This Document Relates To:

ALL ACTIONS

**STIPULATION AND ~~[PROPOSED]~~
ORDER RE: BRIEFING AND
HEARING OF MOTIONS TO
DISMISS SECOND AMENDED
COMPLAINT**

Hon. Charles R. Breyer

1 WHEREAS, Plaintiffs filed their Second Amended Complaint for Damages and Equitable
2 Relief on February 2, 2009 (the "SAC");

3 WHEREAS, Defendants have informed Plaintiffs of their intention to move to dismiss the
4 SAC; and

5 WHEREAS, the parties have met and conferred and agreed, subject to approval of the
6 Court, on a briefing and hearing schedule for Defendants' motions to dismiss the SAC that will
7 allow the parties adequate time to prepare their respective papers in support of and in opposition to
8 the motions;

9 NOW, THEREFORE, THE PARTIES STIPULATE that, subject to the Court's approval,
10 the following briefing and hearing schedule shall apply to Defendants' motions to dismiss the
11 SAC, and to any other motions one or more Defendants might make in response to the SAC:

12 Defendants' Opening Papers due April 6, 2009

13 Plaintiffs' Opposition Papers due June 5, 2009

14 Defendants' Reply Papers due July 10, 2009

15 Hearing on motions to dismiss August 28, 2009 at 10:00 a.m.

16 IT IS SO STIPULATED.

17
18 Dated: February 18, 2009

/s/ Robert S. Stern

19 ROBERT S. STERN
20 GREGORY B. KOLTUN
21 SYLVIA RIVERA
22 Morrison & Foerster LLP
23 555 West Fifth Street, Suite 3500
24 Los Angeles, California 90013-1024
25 Telephone: (213) 892-5200
26 Facsimile: (213) 892-5454

27 W. STEPHEN SMITH
28 MORRISON & FOERSTER LLP
2000 Pennsylvania Avenue, NW, Suite 5500
Washington, D.C. 20006-1888
Telephone: (202) 887-1500
Facsimile: (202) 887-0763

Attorneys for Defendants JPMORGAN CHASE &
CO., CHASE BANK USA, N.A., JPMORGAN
CHASE BANK, N.A., and BANK ONE, N.A.

1
2
3 Dated: February 18, 2009

/s/ Sonya D. Winner

SONYA D. WINNER
ERIN C. SMITH
COVINGTON & BURLING LLP
One Front Street, 35th Floor
San Francisco, CA 94111
Telephone: (415) 591-6000
Facsimile: (415) 591-6091

7 Attorneys for Defendants BANK OF AMERICA
CORPORATION and BANK OF AMERICA, N.A.

8
9 Dated: February 18, 2009

/s/ Stephen V. Bomse

STEPHEN V. BOMSE
ORRICK, HERRINGTON & SUTCLIFFE LLP
405 Howard Street
San Francisco, CA 94105-2669
Telephone: (415) 773-5700
Facsimile: (415) 773-5759

14 Attorneys for Defendant SUNTRUST BANKS, INC.

15 Dated: February 18, 2009

/s/ David F. Graham

DAVID F. GRAHAM
SIDLEY AUSTIN LLP
One South Dearborn
Chicago, Illinois 60603
Telephone: (312) 853-7000
Facsimile: (312) 853-7036

20 Attorneys for Defendants CITIGROUP, INC.,
CITIBANK, N.A., and CITIBANK (WEST), FSB

21
22 Dated: February 18, 2009

/s/ Jack R. Nelson

JACK R. NELSON
REED SMITH LLP
Two Embarcadero Center, Suite 2000
San Francisco, CA 94111
Telephone: (415) 543-8700
Facsimile: (415) 391-8269

26 Attorneys for Defendant WACHOVIA
CORPORATION

1 Dated: February 18, 2009

/s/ Joshua N. Holian

DANIEL M. WALL
JOSHUA N. HOLIAN
ERICA T. GROSSMAN
LATHAM & WATKINS
505 Montgomery Street, Suite 1900
San Francisco, CA 94111
Telephone: (415) 391-0600
Facsimile: (415) 395-8095

DONALD I. BAKER
BAKER & MILLER
2401 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20037
Telephone: (202) 663-7820
Facsimile: (202) 663-7849

Attorneys for Defendants WELLS FARGO & CO.,
WELLS FARGO BANK, N.A. and SERVUS
FINANCIAL CORP.

12 Dated: February 18, 2009

/s/ Peter E. Moll

PETER E. MOLL (admitted *pro hac vice*)
BRIAN D. WALLACH (admitted *pro hac vice*)
HOWREY LLP
1299 Pennsylvania Avenue, NW
Washington, D.C. 20004
Telephone: (202) 783-0800
Facsimile: (202) 383-6610

STEPHEN R. COOK
HOWREY LLP
2020 Main Street, Suite 1000
Irvine, CA 92614
Telephone: (949) 759-3981
Facsimile: (949) 721-6910

Attorneys for Defendants CONCORD EFS, INC. and
FIRST DATA CORP.

1 Dated: February 18, 2009

/s/ Bart D. Cohen

MERRILL G. DAVIDOFF (admitted *pro hac vice*)

2 BART D. COHEN (admitted *pro hac vice*)

3 MICHAEL J. KANE (admitted *pro hac vice*)

BERGER & MONTAGUE, P.C.

1622 Locust Street

4 Philadelphia, PA 19103

Telephone: (215) 875-3000

5 JOSEPH R. SAVERI

6 LIEFF, CABRASER, HEIMANN

& BERNSTEIN LLP

7 275 Battery Street, 30th Floor

San Francisco, CA 94111

8 Telephone: (415) 956-1000

9 Co-Lead Counsel for Plaintiffs

10
11
12 **GENERAL ORDER 45 ATTESTATION**

13 I, Sylvia Rivera, am the ECF User whose ID and password are being used to file the
14 attached STIPULATION AND [PROPOSED] ORDER RE: BRIEFING AND HEARING OF
15 MOTIONS TO DISMISS SECOND AMENDED COMPLAINT. In compliance with General
16 Order 45, X.B., I attest that the above-listed signatories have concurred in this filing.
17

18
19 /s/ Sylvia Rivera

Sylvia Rivera

ORDER

The parties having stipulated, and good cause appearing, it is hereby ORDERED that Defendants' motions to dismiss the Second Amended Complaint, and any other motions one or more Defendants makes in response to the Second Amended Complaint, shall be served and filed on or before April 6, 2009. Plaintiffs' opposition(s) to the motions shall be served and filed on or before June 5, 2009. Defendants may serve and file their replies on or before July 10, 2009. The hearing on the motions will occur on August 28, 2009 at 10:00 a.m.

IT IS SO ORDERED.

Dated: February 19, 2009

